

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA
3

4 DIAMOND STATE INSURANCE COMPANY,
5 an Indiana corporation,

No. C 11-5193 CW

6 Plaintiff,

7 v.
8 ORDER DENYING AS
9 MOOT DEFENDANT'S
MOTION TO DISMISS,
ABSTAIN OR STAY
(Docket No. 12)

MARIN MOUNTAIN BIKES, INC., a
California corporation; and ATB
SALES LIMITED, a private limited
company in the United Kingdom,

10 Defendants.

11 /
12 On September 23, 2011, ATB Sales Limited (ATB) filed a
13 federal action against Marin Mountain Bikes, Inc. (MMB), seeking
14 to enforce a foreign judgment in favor of ATB against MMB.
15 Request for Judicial Notice ¶ 1, Ex. A, Compl., ATB Sales Limited
16 v. Marin Mountain Bikes, Inc., Case No. 11-4755 YGR (N.D. Cal.)
17 (ATB case).

18 On October 24, 2011, Plaintiff Diamond State Insurance
19 Company filed the instant suit against ATB and MMB, seeking a
20 declaratory judgment that it does not have a duty to defend or
21 indemnify MMB in connection with the ATB case. Compl. ¶¶ 9-13.

22 On December 30, 2011, MMB filed a motion to dismiss, abstain
23 or stay the current suit pending resolution of the ATB case.
24 Docket No. 12. On February 8, 2012, MMB filed a request for leave
25 to file supplementary material in connection with its earlier
26 motion, representing that it had reached a settlement with ATB in
27 the underlying case. Docket No. 19.

1 After the Court granted the parties leave to file
2 supplementary material, MMB filed a sur-reply on April 16, 2012,
3 stating that all parties have signed a written settlement
4 agreement resolving the ATB case and that its motion to dismiss,
5 abstain or stay the instant action had become moot in full.
6 Docket No. 21, at 1-2. MMB also represented that the parties
7 would file a notice in the ATB case informing the Court of the
8 settlement. Id. at 1. The Court notes that no such notice has
9 been filed in the docket of the ATB case and that that case is
10 still pending.

11 Based on MMB's statement, the Court DENIES AS MOOT MMB's
12 motion to dismiss, abstain or stay (Docket No. 12).

13 A case management conference in this action is currently set
14 for May 2, 2012, at 2:00 p.m. Pursuant to the case management
15 scheduling order, the parties are required to file a joint case
16 management statement no later than April 25, 2012. In the
17 parties' case management statement, in addition to the items
18 required by the Standing Order for All Judges of the Northern
19 District of California, the parties shall also address whether the
20 ATB case has been closed and whether they have reached a
21 resolution of the instant case.

22 IT IS SO ORDERED.

23
24 Dated: 4/23/2012


CLAUDIA WILKEN
United States District Judge

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26 CC: Hon. Yvonne Gonzalez Rogers
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